

Remarks

The Office Action dated March 29, 2006 has been carefully reviewed and the foregoing amendments are submitted in consequence thereof.

Claims 47-87 are now pending in the present application, of which claims 47, 48, 51, 58, 61, 64, 65, 71, 76, 77 and 80 have been amended. It is respectfully submitted that the pending claims define allowable subject matter.

A. Drawing Objections.

The objection to the drawings is respectfully traversed. The drawings were objected to for not showing certain features of the invention as claimed, but Applicants respectfully submit that the noted features are illustrated in the drawings.

For example, Applicants note that Figures 8 and 9 illustrate two arm portions (110) arranged side-by-side as recited in claim 51.

The rigid base having a bottom portion and a pair of wheel wells as recited in claim 60 is illustrated in Figures 1 and 2.

A handle fixedly mounted to a distal end of an arm along an axis extending perpendicular to a center axis of the arm while being configured to pivot about the center axis, as recited in claim 61, is depicted in Figures 1-6 and 12-16. The fixed mount of the handle to the distal end of the arm along an axis extending perpendicular to the a center axis of the arm is in direct contrast to the arrangement illustrated in Figures 8-11 of the present application wherein the handle is freely pivotal about both a vertical center axis and a horizontal axis perpendicular to the center axis as shown in Figure 8. Fixing the handle along the horizontal axis extending perpendicular to the vertical center axis precludes the multi-axis pivoting disclosed and described in relation to Figures 8-11.

Applicants accordingly request the objection to the drawings be withdrawn.

B. The § 112 Rejections

The rejections of claims 51, 60, 61, 65, 73 and 74-85 under 35 U.S.C. § 112, first paragraph is respectfully traversed. Contrary to assertions otherwise in the Office Action, it is respectfully submitted that the original disclosure does teach the noted recitations of the claims. For example, curved arms spaced from one another is disclosed on at least page 15 line 28 to page 16 line 21 and Figures 8-11. The rigid base with wheel wells is clearly disclosed in Figures 1 and 2. A handle fixedly mounted to a distal end of an arm along an axis extending perpendicular to a center axis of the arm while being configured to pivot about the center axis, is shown and described in relation to Figures 1-6 and 12-16. The arm with two locked positions is clearly shown and described in relation to Figures 12-16. None of the noted recitations in the Office Action constitute new matter, and Applicants respectfully request reconsideration and withdrawal of the § 112, first paragraph rejections.

The rejections of claims 47-60, 80 and 86 under 35 U.S.C. § 112, second paragraph is respectfully traversed. The claims have been amended for clarity, and believed to be clear and definite. Applicants accordingly request that the § 112 rejection of claims 47-60, 80 and 86 be withdrawn.

C. The Prior Art Rejections

Applicants will now consider the prior art rejections in the order set forth in the Office Action.

1. Bellini - §102(e)

The rejection of claims 47, 52-54, 56, 61, 66, 67, 69, 73, 86 and 87 under 35 U.S.C. § 102(e) is respectfully traversed.

Applicants note the following with respect to the applicable law of anticipation. As explained by the Federal Circuit, a rejection on the ground of "anticipation" requires a disclosure in a single piece of prior art of each and every limitation of a claimed invention. A finding of anticipation requires that the publication describe all of the elements of the claims arranged as in

the patented device. In other words, to anticipate, a single reference must teach every limitation of the claimed invention.

Claim 47 has been amended for clarity and now recites, among other recitations, a towing handle pivotally connected to the distal end of the arm, the towing handle configured to pivot about the center axis at the distal end of the arm and otherwise unable to move relative to the distal end. Bellini does not teach or suggest such a handle.

Bellini describes a grip device (1) that is freely rotatable about a first axis (13) and a second axis (14) at a distal end of a supporting structure (8). Thus, unlike the invention of claim 9, the Bellini handle is configured to pivot about a center axis (14) of the support structure and is *able* to move about the axis (13) as well. Claim 47 expressly precludes movement about the axis (13) of Bellini, and Bellini therefore does not anticipate claim 47. Additionally, claim 47 recites a curved arm that is not disclosed by Bellini.

Moreover, the invention of claim 47 is not suggested by Bellini either. Configuring the handle to pivot about the center axis of the support structure at a distal end thereof while otherwise rendering the handle unable to move relative to the distal end, as claim 47 recites, would apparently compromise the advantages of the Bellini invention as described in paragraph [0011] by providing reduced ability to steer the luggage.

Claim 47 is therefore submitted to be patentable over Bellini.

Claims 52-54, 56 and 86 depend from claim 47, and when the recitations of claims 52-54, 56 and 86 are considered in combination with the recitations of claim 47, claims 52-54, 56 and 86 are likewise submitted to be patentable over Bellini.

Claim 61 recites a towing handle “pivotally connected to the distal end of the arm, the towing handle fixedly mounted to the distal end along an axis extending generally perpendicular to the center axis while being configured to pivot generally about the center axis at the distal end of the arm.” The Bellini grip (1) as noted above, is not fixedly mounted along an axis extending generally perpendicular to the center axis as claim 61 recites. Rather, the Bellini grip (1) is freely rotatable about the axis (13) extending perpendicular to a center axis of the support

structure (8), and claim 61 is not anticipated by Bellini. For similar reasons to those explained above in relation to claim 47, the invention of claim 61 is not suggested by Bellini either.

Claim 61 also recites “a locking mechanism located proximate the handle and the distal end of the arm, the locking mechanism being selectively moveable between a locked position and an unlocked position, wherein the locking mechanism prevents pivoting of the towing handle about the center axis when in the locked position and permits pivoting of the towing handle relative to the center axis when in the unlocked position, wherein the towing handle may be oriented in different angular orientations relative to the center axis when the locking mechanism is in the locked position.” The Bellini grip (1) is lockable in one position only as shown in Figure 4. The Bellini grip (1) is not lockable in any other position, and the Bellini grip (1) may not be oriented in different angular orientations relative to the center axis when the locking mechanism is in the locked position as claim 61 recites. Bellini also fails to disclose Additionally, the locking element and protrusions recited in claim 61 are not disclosed the locking element and lock protrusion recited in claim 61.

Claim 61 is therefore submitted to be patentable over Bellini.

Claims 66, 67, 69, 73 and 87 depend from claim 61, and when the recitations of claims 66, 67, 69, 73 and 87 are considered in combination with the recitations of claim 61, claims 66, 67, 69, 73 and 87 are likewise submitted to be patentable over Bellini.

Applicants accordingly request that the § 102(e) rejection of claims 47, 52-54, 56, 61, 66, 67, 69, 73, 86 and 87 be withdrawn.

2. Bellini in view of Miyoshi

The rejection of claims 49-51 and 63-65 under 35 U.S.C. § 103(a) as being unpatentable over Bellini in view of Miyoshi (U.S. Patent No. 5,908,093) or in the alternative over Miyoshi in view of Bellini is respectfully traversed.

Applicants note the following with respect to the law of obviousness. As explained by the Federal Circuit, "to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of

making the specific combination that was made by the applicant." In re Kotzab, 54 USPQ2d 1308, 1316 (Fed. Cir. 2000). "It is impermissible . . . to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." In re Wesslau, 147 USPQ 391, 393 (CCPA 1965). See also, Smithkline Diagnostics, Inc. v. Helena Laboratories, Corp., 8 USPQ2d 1468, 1475 (Fed. Cir. 1988) ("claims, entire prior art, and prior art patents must be read 'as a whole'"). If art "teaches away" from a claimed invention, such a teaching supports the nonobviousness of the invention. U.S. v. Adams, 148 USPQ 479 (1966); Gillette Co. v. S.C. Johnson & Son, Inc., 16 USPQ2d 1923, 1927 (Fed. Cir. 1990).

Claims 49-51 depend from claim 47, submitted to be patentable over Bellini for the reasons set forth above. Miyoshi does not cure the deficiencies of Bellini with respect to claim 47. In fact, Miyoshi does not disclose a handle movable in any way relative to a distal end of an arm. The references therefore collectively fail to teach all of the recitations of claim 47 and claim 47 is accordingly submitted to be patentable over Bellini in view of Miyoshi, or alternatively Miyoshi in view of Bellini. When the recitations of claim 49-51 are considered in combination with the recitations of claim 47, claims 49-51 are likewise submitted to be patentable over Bellini in view of Miyoshi, or alternatively Miyoshi in view of Bellini.

Claims 63-65 depend from claim 61, submitted to be patentable over Bellini for the reasons set forth above. Miyoshi does not cure the deficiencies of Bellini with respect to claim 61. As noted above, Miyoshi does not disclose a handle movable in any way relative to a distal end of an arm and is therefore submitted to add nothing to the teaching of Bellini with respect to claim 61. The references therefore collectively fail to teach all of the recitations of claim 61 and claim 61 is accordingly submitted to be patentable over Bellini in view of Miyoshi, or alternatively Miyoshi in view of Bellini. When the recitations of claim 63-65 are considered in combination with the recitations of claim 61, claims 63-65 are likewise submitted to be patentable over Bellini in view of Miyoshi, or alternatively Miyoshi in view of Bellini.

Applicants accordingly request that the § 103(a) rejection of claims 49-51 and 63-65 be withdrawn.

3. Bellini in view of Mao

The rejection of claims 48-50 and 62-64 under 35 U.S.C. § 103(a) as being unpatentable over Bellini in view of Mao (U.S. Patent No. 6,279,706) is respectfully traversed.

Mao is not prior art to the present application because the disclosure of Mao was derived from previous work of one of the inventors of the present application. Submitted herewith is a copy of a Declaration of Inventor Cory Nykoluk submitted in another commonly owned application (Serial No. 10/103,033) that was deemed sufficient to overcome rejections based upon the Mao reference. While this Declaration arose in the context of prosecution of another application, it is nonetheless relevant to the present prosecution because it demonstrates that the invention described in the Mao patent was derived from the inventor, thereby removing it from prior art that may be cited against the application. Applicants note that Application Serial No. 10/103,033 and has now issued as U.S. Patent No. 6,918,474, but a copy of this Declaration has also been filed in U.S. Application Serial No. 10/857,394 which is now copending with the present application. By virtue of this Declaration, Mao is disqualified as a reference that may be cited against the present claims, and any rejection based upon Mao is overcome.

Notwithstanding the above, claims 48-50 depend from claim 47, submitted to be patentable over Bellini for the reasons set forth above. Mao does not cure the deficiencies of Bellini with respect to claim 47. In fact, Mao does not disclose a handle movable in any way relative to a distal end of an arm. The references therefore collectively fail to teach all of the recitations of claim 47 and claim 47 is accordingly submitted to be patentable over Bellini in view of Mao. When the recitations of claim 48-50 are considered in combination with the recitations of claim 47, claims 48-50 are likewise submitted to be patentable over Bellini in view of Mao.

Likewise, claims 62-64 depend from claim 61, submitted to be patentable over Bellini for the reasons set forth above. Mao does not cure the deficiencies of Bellini with respect to claim 61. As noted above, Mao does not disclose a handle movably in any way relative to a distal end of an arm and is therefore submitted to add nothing to the teaching of Bellini with respect to claim 61. The references therefore collectively fail to teach all of the recitations of claim 61 and

claim 61 is accordingly submitted to be patentable over Bellini in view of Mao. When the recitations of claim 62-64 are considered in combination with the recitations of claim 61, claims 62-64 are likewise submitted to be patentable over Bellini in view of Mao.

Applicants accordingly request that the § 103(a) rejection of claims 48-50 and 62-64 be withdrawn.

4. Bellini in view of either Tsai or Hung-Hsin

The rejection of claims 60 and 73 under 35 U.S.C. § 103(a) as being unpatentable over Bellini in view of either Tsai (U.S. Patent No. 5,524,920) or Hung-Hsin (5,374,073) is respectfully traversed.

Claim 60 depends from claim 47, submitted to be patentable over Bellini for the reasons set forth above. Tsai and/or Hung-Hsin do not cure the deficiencies of Bellini with respect to claim 47. In fact, neither Tsai nor Hung-Hsin discloses a handle movable in any way relative to a distal end of an arm. Bellini, Tsai and Hung-Hsin therefore collectively fail to teach all of the recitations of claim 47 and claim 47 is accordingly submitted to be patentable over Bellini in view of either Tsai or Hung-Hsin. When the recitations of claim 60 are considered in combination with the recitations of claim 47, claim 60 is likewise submitted to be patentable over Bellini in view of either Tsai or Hung-Hsin.

Claim 73 depends from claim 61, submitted to be patentable over Bellini for the reasons set forth above. Tsai and/or Hung-Hsin do not cure the deficiencies of Bellini with respect to claim 61. As noted above, neither Tsai nor Hung-Hsin discloses a handle movable in any way relative to a distal end of an arm, and consequently neither Tsai nor Hung-Hsin adds to the teaching of Bellini with respect to claim 61. Bellini, Tsai and Hung-Hsin collectively fail to teach all of the recitations of claim 61 and claim 61 is accordingly submitted to be patentable over Bellini in view of either Tsai or Hung-Hsin. When the recitations of claim 73 are considered in combination with the recitations of claim 61, claim 73 is likewise submitted to be patentable over Bellini in view of either Tsai or Hung-Hsin.

Applicants accordingly request that the § 103(a) rejection of claims 60 and 73 be withdrawn.

5. Lu '459 or Lu '459 in view of Miyoshi

The rejection of claims 47, 52, 54-57, 59, 61, 66-72, 86 and 87 under 35 U.S.C. § 102(e) as being anticipated by Lu (U.S. Patent No. 6,530,459) or alternatively 35 U.S.C. § 103(a) as being unpatentable over Lu in view of Miyoshi is respectfully traversed.

Claim 47 recites that the arm is curved outwardly away from the piece of baggage when in the extended position. This is not disclosed by Lu '459 and claim 47 is therefore not anticipated by Lu '459. Moreover, Miyoshi discloses a curved pole construction that is curved inwardly toward the bag, and not outwardly and away from the bag when in an extended position as claim 47 recites. Claim 47, reciting essentially an opposite pole construction to that disclosed by Miyoshi, is therefore not obvious over Lu '459 in view of Miyoshi.

Claim 47 is therefore submitted to be patentable over Lu '459 or alternatively Lu '459 in view of Miyoshi. When the recitations of dependent claims 52, 54-57, 59 and 86 are considered in combination with the recitations of claim 47, claims 52, 54-57, 59 and 86 are likewise submitted to be patentable over Lu '459 or alternatively Lu '459 in view of Miyoshi.

Claim 61 recites that the locking mechanism comprises "a movable locking element defining a slot and the handle including a locking protrusion extending through the slot." Lu '459 discloses no such structure. Rather, Lu '459 discloses an anchor seat (70) having an upper seat (71) and lower seat (72) mounted stationary to the pulling bars (11). The upper seat (71) defines slots (712) and (713) that receive a push stem (50) in different positions. The upper seat (71) is not movable while the push stem is. This is clearly different from the invention of claim 61, and claim 61 is not anticipated over Lu '459. Moreover, Miyoshi does not disclose a pivotal handle or a locking mechanism therefore, and adds nothing to the teaching of Lu '459 with respect to the invention of claim 61. The combination of Lu '459 and Miyoshi collectively fail to teach or suggest the locking element and locking protrusions recited in claim 61 and claim 61 is not obvious over Lu '459 in view of Miyoshi.

Claim 61 is therefore submitted to be patentable over Lu '459 or alternatively Lu '459 in view of Miyoshi. When the recitations of dependent claims 66-72 and 87 are considered in combination with the recitations of claim 61, claims 66-72 and 87 are likewise submitted to be patentable over Lu '459 or alternatively Lu '459 in view of Miyoshi.

Applicants accordingly request that the § 102(e) rejection or alternative §103(a) rejection of claims 47, 52, 54-57, 59, 61, 66-72, 86 and 87 be withdrawn.

6. Lu '459 in view of Mao

The rejection of claims 48-51, 62-65, 72 and 74-85 under 35 U.S.C. § 103(a) as being unpatentable over Lu '459 in view of Mao is respectfully traversed.

As explained above, the invention disclosed by Mao is a description of previous work by one of the inventors, and Mao is not prior art to the present application. Applicants accordingly request that these rejections be reconsidered and withdrawn.

7. Lu '459 in view of Scicluna

The rejection of claims 53 under 35 U.S.C. § 103(a) as being unpatentable over Lu '459 in view of Scicluna (U.S. Patent No. 5,984,154) is respectfully traversed.

Claim 53 depends from claim 47, submitted to be patentable over Lu '459 for the reasons set forth above. Scicluna does not cure the deficiencies of Lu '459 with respect to the present invention, and notably does not disclose a curved arm as recited in claim 47. The references therefore collectively fail to teach all of the recitations of claim 47, and claim 47 is accordingly patentable over Lu '459 in view of Scicluna. When the recitations of claim 53 are considered in combination with the recitations of claim 47, claim 53 is likewise submitted to be patentable over Lu '459 in view of Scicluna.

Applicants accordingly request that the rejection of claim 53 be withdrawn.

8. Lu '459 in view of Tsai or Hung-Hshin

The rejection of claims 60 and 73 under 35 U.S.C. § 103(a) as being unpatentable over Lu in view of Tsai or Hung-Hsin is respectfully traversed.

Claim 60 depends from claim 47, submitted to be patentable over Lu '459 for the reasons set forth above. Neither Tsai nor Hung-Hsin cure the deficiencies of Lu '459 with respect to the invention of claim 47, and notably neither of Tsai and Hung-Hsin discloses a curved arm as recited in claim 47. The references therefore collectively fail to teach all of the recitations of claim 47, and claim 47 is accordingly patentable over Lu '459 in view of Tsai or Hung-Hsin. When the recitations of claim 60 are considered in combination with the recitations of claim 47, claim 60 is likewise submitted to be patentable over Lu '459 in view of Tsai or Hung-Hsin.

Claim 73 depends from claim 61, submitted to be patentable over Lu '459 for the reasons set forth above. Neither Tsai nor Hung-Hsin cure the deficiencies of Lu '459 with respect to the invention of claim 61. Like Lu '549, neither of Tsai and Hung-Hsin disclose the locking element and locking protrusions recited in claim 61. The references therefore collectively fail to teach all of the recitations of claim 61, and claim 61 is accordingly patentable over Lu '459 in view of Tsai or Hung-Hsin. When the recitations of claim 73 are considered in combination with the recitations of claim 61, claim 73 is likewise submitted to be patentable over Lu '459 in view of Tsai or Hung-Hsin.

Applicants accordingly request that the rejection of claims 60 and 73 be withdrawn.

9. Lu '344

The rejection of claims 47-59, 61-72 and 74-87 under 35 U.S.C. § 102(e) as being anticipated over Lu (U.S. Patent No. 6,508,344) is respectfully traversed.

Evidence has been submitted that the inventor of the Lu '344 patent was associated with the present Applicants and learned of Applicants' invention from Applicants and that the Lu '344 disclosure is a description of Applicants' own prior work, as established by the Declaration dated July 14, 2005 that has been submitted under 37 C.F.R. § 1.132. The 1.132 submission is directly authorized in M.P.E.P § 2136.05, and the requirements thereof are believed to be met to disqualify the Lu '344 reference as prior art to the present application.

The present Office Action states that the 1.132 submission fails to overcome the Lu '344 reference because the factual evidence of Appendices A-C fails to show the locking structure as

claimed. Applicants respectfully submit that Appendices A-C are not intended to illustrate the locking structure as claimed, but rather are submitted as evidence that the invention disclosed in Lu '344 is a description of previous work of the Applicant. The proper inquiry for such a submission under Rule 1.132 is who invented the subject matter disclosed in the cited reference, and not who invented the invention claimed in the application being examined. The factual evidence submitted with the declaration amply demonstrates that the invention disclosed in the Lu' 344 is prior work of one of the inventors for the present application and is therefore not prior art that can be cited against the claims.

M.P.E.P § 716.10 provides that an uncontradicted, unequivocal statement in a 1.132 submission that the Applicants invented the subject matter disclosed in a reference will be accepted as establishing inventorship. Therefore, absent some evidence to contradict the 1.132 declaration, which Applicants respectfully submits is not present, the Office should accept the 1.132 declaration. There is no apparent reason or basis for the Examiner to question the accuracy of any statement in the declaration or the content of the associated evidence. The similarities between the evidence associated in Appendices A-C of the Declaration and the invention disclosed in Lu '344 are undeniable.

Having established the requirements of a submission under rule 1.132 Applicants have disqualified the Lu '344 patent as prior art that may be cited against the claims, and Applicants accordingly request that the rejection of claims 47-59, 61-72 and 74-87 that rely upon the Lu '344 reference be reconsidered and withdrawn.

Notwithstanding the above, Applicants note that Lu '344 does not meet the recitations of the presently pending claims, and Lu '344 is not an anticipating reference.

For example, claim 47 recites a towing handle pivotally connected to a distal end of an arm, the towing handle configured to pivot about the center axis at the distal end of the arm and otherwise unable to move relative to the distal end. The Lu handle, as shown in Figures 5 and 6, is pivotal about a first center axis (6) shown in Figure 5, *and* is movable about a second axis extending perpendicular to the axis (6) as shown in Figure 6. Claim 47 also recites that the arm is "curved outwardly away from the piece of baggage when in the extended position." Lu '344

does not disclose that the pulling bars (11) are curved. Claim 47 is therefore clearly not anticipated by Lu '344 and claim '47 is submitted to be patentable over Lu'344.

Claims 48-59 and 86 depend from claim 47, and when the recitations of claims 48-59 and 86 are considered in combination with the recitations of claim 47, claims 48-59 and 86 are likewise submitted to be patentable over Lu '344.

Likewise, claim 61 recites the towing handle "fixedly mounted to the distal end along an axis extending generally perpendicular to the center axis while being configured to pivot generally about the center axis at the distal end of the arm." Lu '344 is not fixed mounted along an axis perpendicular to the center axis of the bars (11), but rather is movable about the perpendicular axis as illustrated in Figures 5 and 6. Claim 61 is therefore submitted to be patentable over Lu '344.

Claims 62-72 and 87 depend from claim 61, and when the recitations of claims 62-72 and 87 are considered in combination with the recitations of claim 61, claims 62-72 and 87 are likewise submitted to be patentable over Lu '344.

Claim 74 recites "at least one curved arm slideably received within the non-extendable portion and movable relative to the non-extendable portion along a curved telescoping path between a retracted position and an extended position." The bars (11) of Lu '344 are not curved, and claim 74 is submitted to be patentable over Lu '344.

Claims 75-85 depend from claim 74, and when the recitations of claims 75-85 are considered in combination with the recitations of claim 74, claims 75-85 are likewise submitted to be patentable over Lu '344.

Applicants accordingly request that the rejection of claims 47-59, 61-72 and 74-87 be withdrawn.

10. Lu '344 in view of Mao

The rejection of claims 47-87 under 35 U.S.C. § 103(a) as being unpatentable over Lu in view of Mao is respectfully traversed.

As explained above, the Mao reference is a description of previous work of one of the inventors and is not prior art to the present application. The present rejection relying upon the Mao reference is therefore overcome, and Applicants request that the rejections of claims 47-87 based upon Mao be reconsidered and withdrawn.

Moreover, neither of the references, considered separately or in combination, teach all of the recitations of independent claims 47 and 61. Lu '344 teaches a handle movable about two axes, one along a center axis of the bars and another along an axis perpendicular to the center axis. Independent claims 47 and 61 directly exclude the handle construction of 'Lu 344. Mao discloses a handle that is not movable at all relative to the distal end. Neither of Lu'344 or Mao disclose or suggest the handles of claims 47 and 61 and their associated dependent claims.

11. Chen

The rejection of claims 47, 52-57, 59-61, 63-64 and 66-72 under 35 U.S.C. § 102(e) as being anticipated by Chen (U.S. Patent No. 6,591,951) is respectfully traversed.

Chen does not anticipate either independent claim 47 or 61. Chen does not disclose or suggest the curved arm recited in claim 47, and does not disclose or suggest the locking element and protrusions recited in claim 61. Claims 47 and 61 are therefore submitted to be patentable over Chen. Dependent claims 52-57 and 59, and claims 63-64 and 66-72 when considered in combination with claims 47 and 61, respectively, are likewise submitted to be patentable over Chen.

Applicants accordingly request that the § 102(e) rejection of claims 47, 52-57, 59-61, 63-64 and 66-72 be withdrawn.

12. Chen in view of Mao

The rejection of claims 47-50, 52-64, 66-76 and 78-87 under 35 U.S.C. § 103(a) as being anticipated by Chen in view of Mao is respectfully traversed.

For the reasons set forth above, Mao is not prior art to the present application and the rejection based on Mao is overcome. Furthermore, the combination of Chen and Mao is not believed to disclose or suggest all the recitations of independent claims 47 and 61.

Applicants accordingly request that the § 103(a) rejection of claims 47-50, 52-64, 66-76 and 78-87 be withdrawn.

13. Kim

The rejection of claims 47, 52, 54, 56, 57, 59, 61, 66, 67, 69, 70 and 72 under 35 U.S.C. § 102(e) as being anticipated by Kim (U.S. Patent No. 6,182,983) is respectfully traversed.

The Office Action cites element (520) of Kim as corresponding to a “pivotally retractable” arm, but this is simply not correct. Element (520) in Kim represents a guide pipe that is not extendable nor retractable relative to the bag. The guide pipe (520) has one end secured in a fastening block (518) and (519) which secures the guide pipe (520) to a angle adjusting assembly (510). The guide pipe (520) pivots at the angle adjusting assembly (510). While the angle of the guide pipe (20) may be adjusted relative to the bag, the guide pipe (520) is incapable of being moved between extended and retracted positions such that the distal end is closer to the piece of baggage when the arm is in the retracted position than when the arm is in the extended position. The guide pipe (520) is a unitary single pipe structure, and adjustment of pipe angle via the assembly (510) does not extend or retract the pipe (520). Once the length adjustment instrument (540) of Kim is fixed, the length of the handle unit (500) is constant and the distance of the handle (532) from the bag remains constant as well. Independent claims 47, and 61 define the arm to be moveable between extended and retracted positions such that the distal end is closer to the piece of baggage when the arm is in the retracted position than when the arm is in the extended position. Claim 74 recites that the arm is movable along a curved telescoping path between an extended position and a retracted position. The pipe (20) simply does not meet the recitations of claims 47, 61 and 74.

Independent claims 47, 61, and 74 also recite a towing handle pivotally connected to the distal end of the arm. Kim, however, discloses a handle (532) that is securely mounted at a set screw (see the cross-section in Figure 16) to a bar (530). The handle (532) is not connected to the distal end of the arm (520). Also, in the Office Action, element (540) of Kim is cited with respect to the “pivot mechanism.” The element (540) in Kim, however, does not pivotally connect any two structures to one another. The element (540) represents a length adjusting

instrument for fixing the length adjusting bar (530) to the guide pipe (520). The length adjustment instrument (540) does not “pivotally” connect the towing handle to a distal end of an arm as presently recited in claims 47, 61 and 74..

Further, Kim does not teach the curved arm recited in claims 47 and 74 and does not teach the locking mechanism recited in claims 47 and 61. The length adjusting instrument (540) of Kim does not prevent pivot of the towing handle relative to the distal end when in a locked position, nor permit pivoting of the towing handle relative to the distal end of the arm when in the unlocked position. When the length adjustment member is loosened, the bar (530) slides within pipe (520) to shorten or lengthen the combination of the pipe (520) and bar (530). The length adjusting instrument (540) does meet the recitations of the claims.


Claims 47, 61 and 74 are therefore submitted to be patentable over Chen, and when the dependent claims are considered in combination with the independent claims, the dependent claims are likewise submitted to be patentable.

Applicants accordingly request that the § 102(e) rejection of claims 47, 52, 54, 56, 57, 59, 61, 66, 67, 69, 70 and 72 be withdrawn.

D. Conclusion

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,


Bruce T. Atkins, Reg. No.: 43,476
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070